

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MARK VERSTUYFT, ROBIN §
VERSTUYFT, THE BEYER LIVING §
TRUST, GORDON KUENEMANN §
and WENDY KUENEMANN §
Plaintiffs, §
§
v. §
§
WELLS FARGO BANK, N.A. and §
WELLS FARGO NATIONAL BANK §
WEST §
Defendants. §

Case No. 5:24-cv-00229

PLAINTIFFS' INITIAL RULE 26 DISCLOSURES

COME NOW, Plaintiffs, Mark Verstuyft, Robin Verstuyft, The Beyer Living Trust, Godon Kuenemann, and Wendy Kuenemann, and, pursuant to Rule 26 Fed. R. Civ. Pro. (a)(1)(A) and this Court's Order Regarding Certain Pretrial Matters (Dkt. 20), respectfully make the following initial disclosures:

INITIAL DISCLOSURE

A. Names, addresses and telephone numbers of individuals likely to have discoverable information relevant to disputed facts, identifying subjects of the information.

i. Mark Verstuyft
c/o Leslie M. Luttrell
Luttrell + Carmody Law Group
100 N. E. Loop 410, Suite 615
San Antonio, Texas 78216
Telephone: 210-426-3600
Facsimile: 210-426-3610
Email: luttrell@lclawgroup.net

A Plaintiff in this proceeding and a person with knowledge regarding the claims made the subject of this litigation.

ii. Robin Verstuyft
c/o Leslie M. Luttrell
Luttrell + Carmody Law Group
100 N. E. Loop 410, Suite 615
San Antonio, Texas 78216
Telephone: 210-426-3600
Facsimile: 210-426-3610
Email: luttrell@lclawgroup.net

A Plaintiff in this proceeding and a person with knowledge regarding the claims made the subject of this litigation.

iii. Earl Beyer, Co-trustee of the Beyer Living Trust
c/o Morris E. "Trey" White, III
Villa & White LLP
100 N. E. Loop 410, Suite 615
San Antonio, Texas 78216
Telephone: 210-225-4500
Facsimile: 210-212-4649
Email: treywhite@villawhite.com

A Plaintiff in this proceeding and a person with knowledge regarding the claims made the subject of this litigation.

iv. Kenneth Beyer, Co-trustee of the Beyer Living Trust
c/o Morris E. "Trey" White, III
Villa & White LLP
100 N. E. Loop 410, Suite 615
San Antonio, Texas 78216
Telephone: 210-225-4500
Facsimile: 210-212-4649
Email: treywhite@villawhite.com

A Plaintiff in this proceeding and a person with knowledge regarding the claims made the subject of this litigation.

v. Gordon Kuenemann
c/o Leslie M. Luttrell
Luttrell + Carmody Law Group
100 N. E. Loop 410, Suite 615
San Antonio, Texas 78216
Telephone: 210-426-3600
Facsimile: 210-426-3610
Email: luttrell@lclawgroup.net

A Plaintiff in this proceeding and a person with knowledge regarding the claims made the subject of this litigation.

vi. Wendy Kuenemann
c/o Leslie M. Luttrell
Luttrell + Carmody Law Group
100 N. E. Loop 410, Suite 615
San Antonio, Texas 78216
Telephone: 210-426-3600
Facsimile: 210-426-3610
Email: luttrell@lclawgroup.net

A Plaintiff in this proceeding and a person with knowledge regarding the claims made the subject of this litigation.

vii. Wells Fargo Bank, N.A.
c/o Tom Farrell
MC GUIREWOODS LLP
845 Texas Avenue, Suite 2400
Houston, Texas 77002
Telephone: 713-571-9191
Email: tfarrell@mcguirewoods.com

Wells Fargo Bank, N.A. is a Defendant in this matter.

viii. Wells Fargo National Bank West
c/o Tom Farrell
MC GUIREWOODS LLP
845 Texas Avenue, Suite 2400
Houston, Texas 77002
Telephone: 713-571-9191
Email: tfarrell@mcguirewoods.com

Wells Fargo National Bank West is a Defendant in this matter.

ix. Karen Nelson
Wells Fargo Bank, N.A.
c/o Tom Farrell
MCGUIREWOODS LLP
845 Texas Avenue, Suite 2400
Houston, Texas 77002
Telephone: 713-571-9191
Email: tfarrell@mcguirewoods.com

Karen Nelson is a Wells Fargo employee who has previously given testimony regarding the facts surrounding the claims made subject to this lawsuit.

x. Bridget Cerny
Wells Fargo Bank, N.A.
c/o Tom Farrell
MCGUIREWOODS LLP
845 Texas Avenue, Suite 2400
Houston, Texas 77002
Telephone: 713-571-9191
Email: tfarrell@mcguirewoods.com

Bridget Cerny is a Wells Fargo employee who has previously given testimony regarding the facts surrounding the claims made subject to this lawsuit.

xi. Mark Pope
Wells Fargo Bank, N.A.
c/o Tom Farrell
MCGUIREWOODS LLP
845 Texas Avenue, Suite 2400
Houston, Texas 77002
Telephone: 713-571-9191
Email: tfarrell@mcguirewoods.com

Mark Pope is a Wells Fargo employee and has knowledge of the facts surrounding the claims made subject to this lawsuit.

xii. Maria Breen
The Bank of San Antonio
1900 NW Loop 410
San Antonio, Texas 78213
Telephone: 210-807-5562
Email: maria.breen@thebankofsa.com

Maria Breen is a former Wells Fargo employee and has knowledge of the facts surrounding the claims made subject to this lawsuit.

xiii. Jomel Patterson-Collum
Wells Fargo Bank, N.A.
c/o Tom Farrell
MCGUIREWOODS LLP
845 Texas Avenue, Suite 2400
Houston, Texas 77002
Telephone: 713-571-9191
Email: tfarrell@mcguirewoods.com

Jomel Patterson-Collum is a Wells Fargo employee and has knowledge of the facts surrounding the claims made subject to this lawsuit.

xiv. Jennifer Cordova
Wells Fargo Bank, N.A.
c/o Tom Farrell
MCGUIREWOODS LLP
845 Texas Avenue, Suite 2400
Houston, Texas 77002
Telephone: 713-571-9191
Email: tfarrell@mcguirewoods.com

Jennifer Cordova is a Wells Fargo employee and has knowledge of the facts surrounding the claims made subject to this lawsuit.

xv. Emanuel Simpson
Wells Fargo Bank, N.A.
c/o Tom Farrell
MCGUIREWOODS LLP
845 Texas Avenue, Suite 2400
Houston, Texas 77002
Telephone: 713-571-9191
Email: tfarrell@mcguirewoods.com

Emanuel Simpson is a Wells Fargo employee and has knowledge of the facts surrounding the claims made subject to this lawsuit.

xvi. Aileen Sheffer
Wells Fargo Bank, N.A.
c/o Tom Farrell
MCGUIREWOODS LLP
845 Texas Avenue, Suite 2400
Houston, Texas 77002
Telephone: 713-571-9191
Email: tfarrell@mcguirewoods.com

Aileen Sheffer is a Wells Fargo employee and has knowledge of the facts surrounding the claims made subject to this lawsuit.

xvii. Deb A. Begg
Wells Fargo Bank, N.A.
c/o Tom Farrell
MCGUIREWOODS LLP
845 Texas Avenue, Suite 2400
Houston, Texas 77002
Telephone: 713-571-9191
Email: tfarrell@mcguirewoods.com

Deb A. Begg is a Wells Fargo employee and has knowledge of the facts surrounding the claims made subject to this lawsuit.

xviii. Kayla L. Terry
Wells Fargo Bank, N.A.
c/o Tom Farrell
MCGUIREWOODS LLP
845 Texas Avenue, Suite 2400
Houston, Texas 77002
Telephone: 713-571-9191
Email: tfarrell@mcguirewoods.com

Kayla L. Terry is a Wells Fargo employee and has knowledge of the facts surrounding the claims made subject to this lawsuit.

xix. Jose A. Gonzalez
Wells Fargo Bank, N.A.
c/o Tom Farrell
MC GUIREWOODS LLP
845 Texas Avenue, Suite 2400
Houston, Texas 77002
Telephone: 713-571-9191
Email: tfarrell@mcguirewoods.com

Jose A. Gonzalez is a Wells Fargo employee and has knowledge of the facts surrounding the claims made subject to this lawsuit.

xx. Jason R. Urata
Wells Fargo Bank, N.A.
c/o Tom Farrell
MC GUIREWOODS LLP
845 Texas Avenue, Suite 2400
Houston, Texas 77002
Telephone: 713-571-9191
Email: tfarrell@mcguirewoods.com

Jason R. Urata is a Wells Fargo employee and has knowledge of the facts surrounding the claims made subject to this lawsuit.

xxi. Elisa Gomez
Wells Fargo Bank, N.A.
c/o Tom Farrell
MC GUIREWOODS LLP
845 Texas Avenue, Suite 2400
Houston, Texas 77002
Telephone: 713-571-9191
Email: tfarrell@mcguirewoods.com

Elisa Gomez is a Wells Fargo employee and has knowledge of the facts surrounding the claims made subject to this lawsuit.

xxii. Charles William Scharf, CEO
Wells Fargo Bank, N.A.
c/o Tom Farrell
MCGUIREWOODS LLP
845 Texas Avenue, Suite 2400
Houston, Texas 77002
Telephone: 713-571-9191
Email: tfarrell@mcguirewoods.com

Charles William Scharf is a Wells Fargo employee and has knowledge of the facts surrounding the claims made subject to this lawsuit.

xxiii. Derek Flowers, Chief Risk Officer (2022 - present)
Wells Fargo Bank, N.A.
c/o Tom Farrell
MCGUIREWOODS LLP
845 Texas Avenue, Suite 2400
Houston, Texas 77002
Telephone: 713-571-9191
Email: tfarrell@mcguirewoods.com

Derek Flowers is a Wells Fargo employee and has knowledge of the facts surrounding the claims made subject to this lawsuit.

xxiv. Amanda Norton, Chief Risk Officer (2018 - 2022)
Address: unknown
Telephone: unknown
Email: unknown

Amanda Norton is a former Wells Fargo employee and has knowledge of the facts surrounding the claims made subject to this lawsuit.

xxv. Christopher John Pettit
Inmate No. WD20498510
Karnes County Detention Facility
810 Commerce St.
Karnes City, TX 78118

c/o Ron Smeberg
Smeberg Law Firm, PLLC
4 Imperial Oaks
San Antonio, TX 78248
Telephone: 210-598-7357
Email: ron@smeberg.com

Christopher John Pettit is a former attorney who pled guilty to three counts

of Wire Fraud (18 U.S.C. § 1343) and three counts of Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity (18 U.S.C. § 1343). Pettit has knowledge of the facts surrounding the claims made subject to this lawsuit.

B. A copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

Plaintiffs are in possession of, and will produce upon request, a copy of non-privileged correspondence prepared and transmitted in connection with the facts surrounding the claims made the subject of this lawsuit.

Plaintiffs reserve the right to supplement their production through discovery and to use any documents produced or identified by Defendants in this lawsuit, or in any related court proceeding, at any time in support of its claim and defenses.

C. A computation of each category of damages claimed by the disclosing party—who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered.

i. **Actual Damages:**

- a. Mark and Robin Verstuyft: \$2,902,899.55¹
- b. The Beyer Living Trust: \$863,186.17².
- c. Gordon and Wendy Kuenemann: \$907,577.58.

ii. **Consequential Damages:**

- a. Mark and Robin Verstuyft: \$73,273.45 representing the attorneys' fees and expenses incurred by the Verstuyfts in connection with the preservation of their claim in the Pettit and

1 The 1031 Exchange funds of Mark and Robing Verstuyft deposited into the NM IOLTA Account totaled \$2,902,911.55. The Verstuyfts have recovered \$12.00 to date and anticipate an additional recovery in the amount of \$205,259.29 from mitigation demands made on third parties following the discovery of their loss. The anticipated recoveries are presently pending consideration by the Hon. Craig Gargotta in the Pettit and CP&A bankruptcy proceedings which are administratively consolidated under Case No. 22-50591.

2 The 1031 Exchange funds of the Beyer Living Trust deposited into the NM IOLTA Account totaled \$1,162,786.17. The Beyer Living Trust has recovered \$299,600.00 from mitigation demands made by the Co-Trustees on third parties following the discovery the Trust's loss.

CP&A Bankruptcy proceedings, excluding fees and expenses directly related to the instant litigation. Additionally, the Verstuyfts anticipate additional consequential damages equal to (1) the capital gains tax obligations to be assessed arising from the inability to close the 1031 exchange in accordance with applicable law equal to 15% of the total deposit into the NM IOLTA account; and (2) interest and other financing related charges incurred as a result of the loss of the net NM IOLTA account deposit.

- b. The Beyer Living Trust: \$33,840.00 representing the attorneys' fees and expenses incurred by the Beyer Living Trust in connection with the preservation of its claim in the Pettit and CP&A Bankruptcy proceedings, excluding fees and expenses directly related to the instant litigation.
- c. Gordon and Wendy Kuenemann: \$5,223.06 representing the attorneys' fees and expenses incurred by the Kuenemanns in connection with the preservation of their claim in the Pettit and CP&A Bankruptcy proceedings, excluding fees and expenses directly related to the instant litigation.

iii. **Texas Theft Liability Act Damages:**

- a. Mark and Robin Verstuyft: "the amount of actual damages found by the trier of fact and, in addition to actual damages, damages awarded by the trier of fact in a sum not to exceed \$1,000" together with attorneys' fees and expenses. TX. Civ. Prac. & Rem. Code §134.005(1).
 - i.
- b. The Beyer Living Trust: "the amount of actual damages found by the trier of fact and, in addition to actual damages, damages awarded by the trier of fact in a sum not to exceed \$1,000" together with attorneys' fees and expenses. TX. Civ. Prac. & Rem. Code §134.005(1).
- c. Wendy and Gordon Kuenemann: "the amount of actual damages found by the trier of fact and, in addition to actual damages, damages awarded by the trier of fact in a sum not to exceed \$1,000" together with attorneys' fees and expenses. TX. Civ. Prac. & Rem. Code §134.005(1).

iv. **Punitive Damages:**

Plaintiffs contend that the actions and inactions of Wells Fargo Bank, N.A. and Wells Fargo National Bank West merit the imposition of punitive damages based upon the outrageous, malicious, and otherwise morally culpable behavior of Wells Fargo Bank, N.A. and Wells Fargo National Bank West. In accordance with applicable Texas law, the punitive damages sought against Wells Fargo Bank, N.A. and Wells Fargo National Bank West will be asserted against the

applicable institution based upon the findings and recommendations of the expert witnesses of the Plaintiffs.

D. Any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

Plaintiffs have no knowledge of any insurance policies or agreements under which insurance might be available to satisfy and or part of a judgment rendered in this matter.

DATED: June 10, 2024.

Respectfully submitted,

LUTTRELL + CARMODY LAW GROUP
One International Centre
100 N.E. Loop 410, Suite 615
San Antonio, Texas 78216
Tel. 210.426.3600
Fax 210.426.3610
luttrell@lclawgroup.net

By: /s/ Leslie M. Luttrell
Leslie M. Luttrell
State Bar No. 12708650

**ATTORNEYS FOR ROBIN AND
MARK VERSTUYFT AND GORDON
AND WENDY KUENEMANN**

VILLA & WHITE, LLP
One International Centre
100 N.E. Loop 410, Suite 615
San Antonio, Texas 78216
Tel. 210.225.4500
Fax. 210.212.4649
treywhite@villawhite.com

By: /s/ Morris E. "Trey" White III
Morris E. "Trey" White III
State Bar No. 24003162

**ATTORNEYS FOR THE BEYER
LIVING TRUST**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing has been served upon the below named counsel as indicated on this the 10th day of June, 2024.

Attorneys for Defendants

Thomas M. Farrell
MC GUIREWOODS LLP
845 Texas Avenue, Suite 2400
Houston, TX 77002
Email: tfarrell@mcguirewoods.com

Jarrod D. Shaw
MC GUIREWOODS LLP
260 Forbes Avenue, Suite 1800
Pittsburgh, PA 15222

Nellie E. Hestin
MC GUIREWOODS LLP
260 Forbes Avenue, Suite 1800
Pittsburgh, PA 15222
Email: nhestin@mcguirewoods.com

/s/ Leslie M. Luttrell
Leslie M. Luttrell